

Responsible Office: Code ID/Assessments and Technology Division.
Subject: Obtaining Export Licenses for NASA



Office of External Relations

Office Work Instruction

Obtaining Export Licenses for NASA

Approved by: _____

John D. Schumacher
Associate Administrator for
External Relations

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DOCUMENT HISTORY LOG

<u>Status</u> <u>(Baseline/</u> <u>Revision/</u> <u>Canceled)</u>	<u>Document</u> <u>Revision</u>	<u>Effective</u> <u>Date</u>	<u>Description</u>
Baseline		01/11/00	
Revision	A	04/24/00	Revisions reflect review of HQOWIs to address Pre-Assessment Audit of February 2000, as follows: corrected symbol usage in section 5, and clarified descriptions in section 6.
Revision	B	2/9/01	Revisions reflect review of HQOWI to address systemic analysis resulting from May 2000 audit. Revised Section 6, steps 6.4.1 and 6.15.4 to note annotation of file if notification by phone or keeping copy of email.

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1. Purpose

The purpose of this procedure is to describe the process used by NASA Export Control Program officials to review export license requests and subsequently apply for export licenses in support of NASA programs and projects and the process of distributing those approved licenses with guidance once received.

2. Scope and Applicability

This OWI covers the process used to review export license requests and to subsequently apply for export licenses in support of NASA programs and projects. This OWI applies for all NASA export license applications, whether to the Department of State, the Department of Commerce or to the Nuclear Regulatory Commission. This OWI is performed in Code ID/Assessments and Technology Division by the HEA and/or designated Export Control Program Officials.

3. Definitions

- | | | |
|------|------------------|--|
| 3.1 | <u>BXA748P</u> | Bureau of Export Administration Application Form for Export License or Classification Request |
| 3.2 | <u>BXA</u> | Bureau of Export Administration, Department of Commerce |
| 3.3 | <u>CEA</u> | Center Export Administrator |
| 3.4 | <u>DO</u> | International Programs Specialist (Desk Officer) in Codes IS, IY, or IH |
| 3.5 | <u>DSP-5</u> | State Department Application Form for Permanent Export |
| 3.6 | <u>EAR</u> | Export Administration Regulations |
| 3.7 | <u>ECP</u> | NASA Export Control Program |
| 3.8 | <u>ECPA</u> | NASA Export Control Program Analyst |
| 3.9 | <u>EPT</u> | Export Processing Template, found at http://www.hq.nasa.gov/office/codei/nasaecp/ |
| 3.10 | <u>Exception</u> | In the EAR, BXA provides exceptions to validated license requirements |
| 3.11 | <u>Exemption</u> | In the ITAR, State provides exemptions to validated license requirements |
| 3.12 | <u>HEA</u> | Headquarters Export Administrator, appointed official in the Office of External Relations |
| 3.13 | <u>IA</u> | International Agreement |
| 3.14 | <u>DD</u> | Assessments and Technology Division Director |
| 3.15 | <u>ITAR</u> | International Traffic in Arms Regulations |
| 3.16 | <u>NLR</u> | No License Required |

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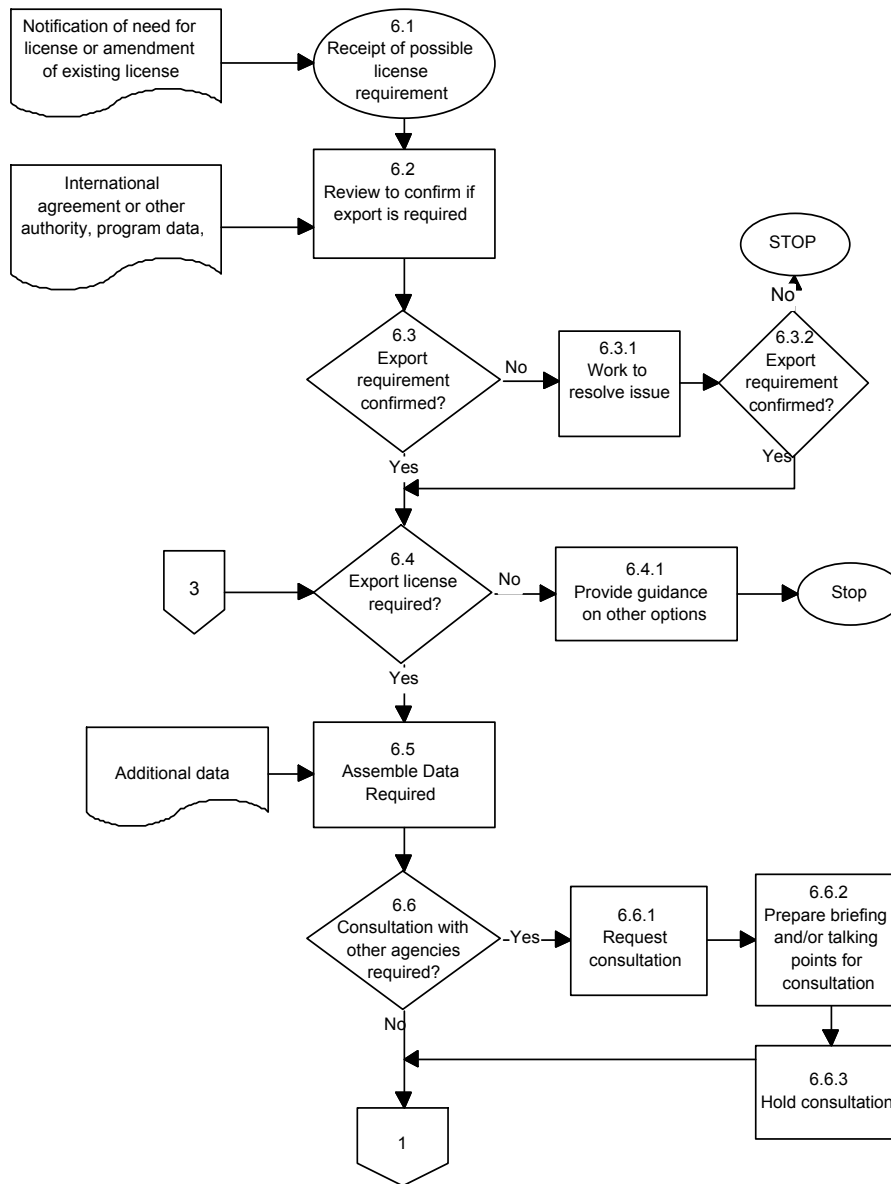
- 3.17 RWA Returned Without Action; both State and Commerce can RWA a license application for various reasons. Applicant can also request RWA.
- 3.18 SED Shippers Export Declaration

4. References

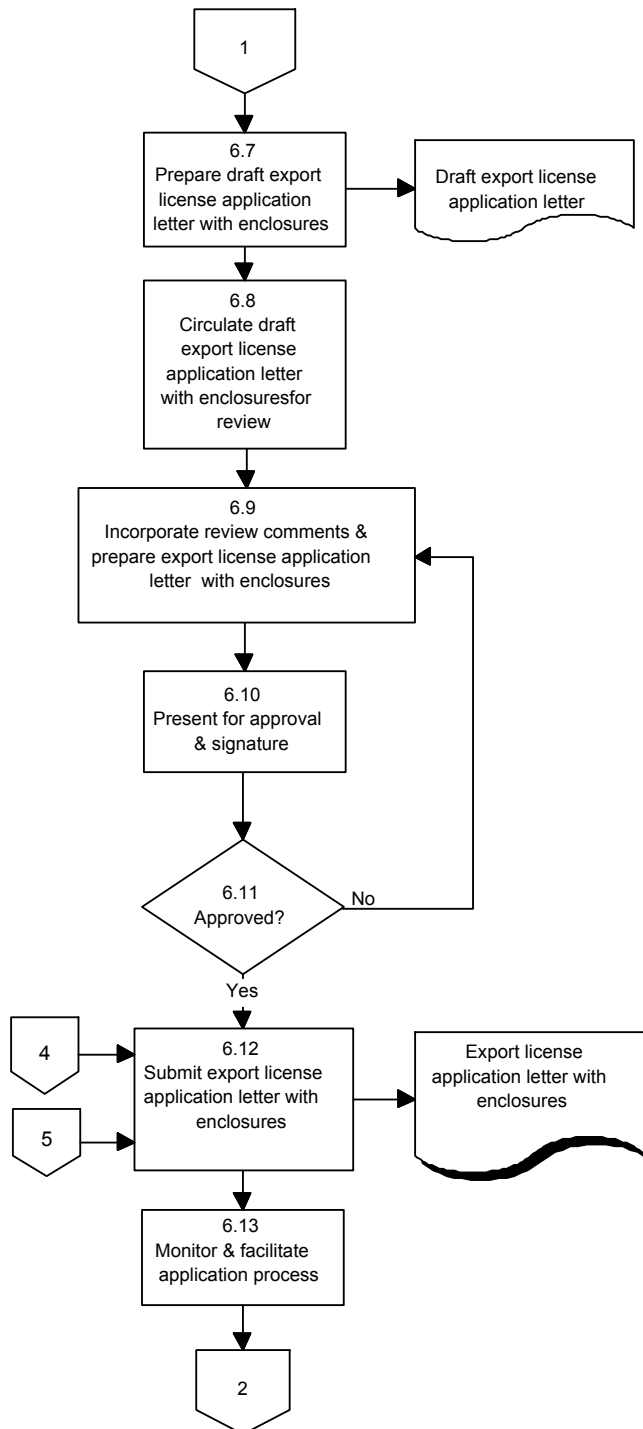
- 4.1 22 CFR 120-130 International Traffic in Arms Regulations, ITAR
- 4.2 15 CFR 730-774 Export Administration Regulations, EAR
- 4.3 NASA Export Control Program, November 1995, Amended October 1998
- 4.4 Forthcoming NPD and NPG 2190, NPD undergoing approval through NODIS

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5. Flowchart

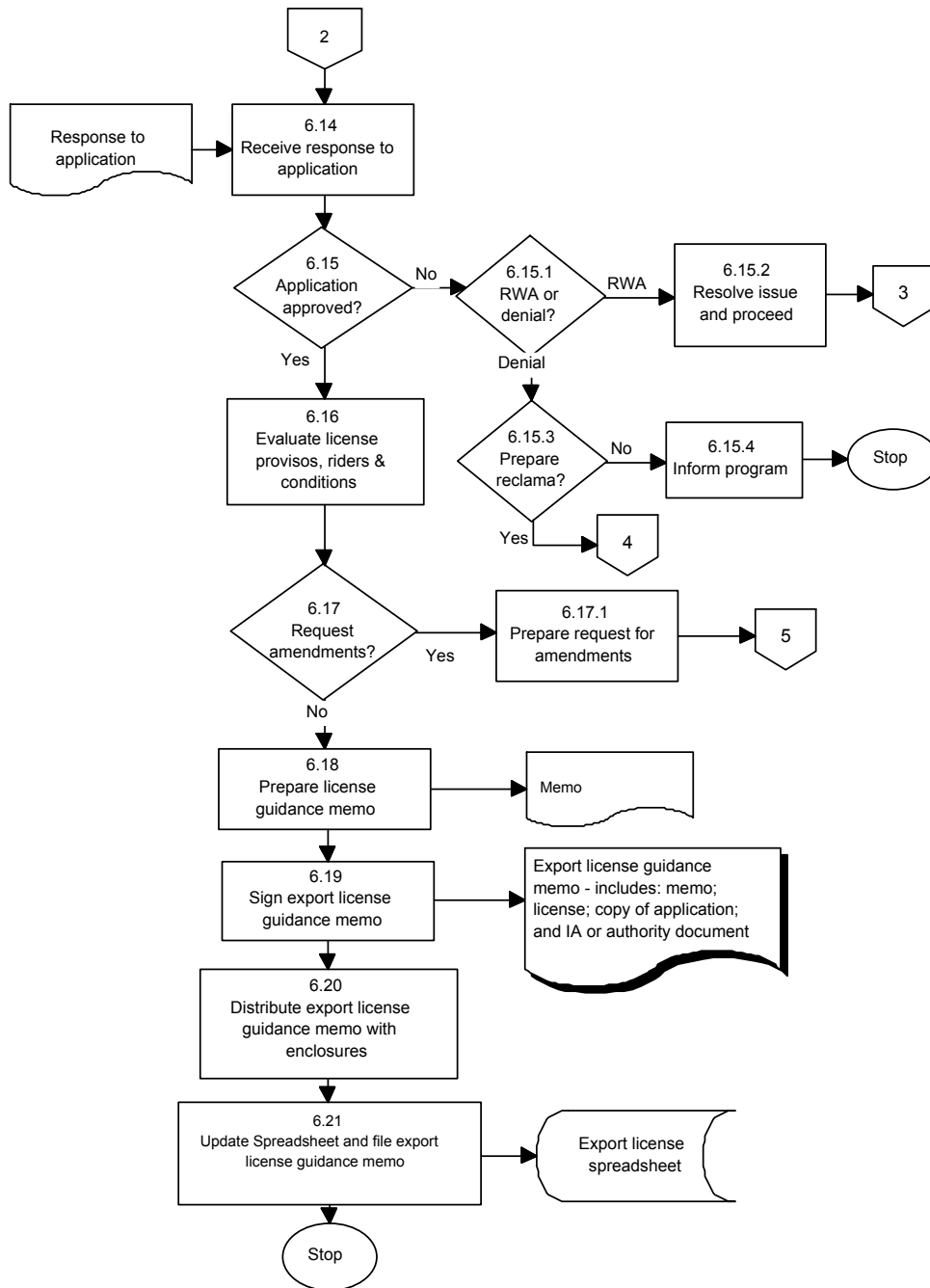


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6. Procedure

Step	Actionee	Action
6.1	HEA or ECPA	Receive notification of possible export license requirement or amendment to existing license from CEA or program/project personnel. Can be in the form of e-mail, phone, meeting, or memo notification.
6.2	HEA or ECPA	Review request, review "authority" document which could be International Agreement (IA), or contract. (Note: Reference ITAR or EAR, NASA ECP, relevant policy documents.)
6.3	ECPA	Confirm/validate export requirement. Is the export in line with program requirements, IA or other authority document? Is it appropriate for NASA to proceed? If yes, go to step 6.4.
6.3.1	ECPA	Work to resolve issue. Determine if the authority document needs to be amended, or if the export requirement can be adjusted. Work with Code I Desk Officer (DO), program/project officials, CEA, etc. to resolve.
6.3.2	ECPA	Is the issue resolved? If yes, proceed to step 6.4. If no, stop export activity, notify originator and the CEA by phone or email.
6.4	ECPA	Determine if an export license is required. (Note: Reference the Export Processing Template (EPT) in the NASA ECP, and or the ITAR or EAR.) If yes, proceed to Step 6.5.
6.4.1	ECPA	A validated license is not required. Notify originator, and the CEA, by phone or email, and provide appropriate guidance on available options, e.g. exemption, exception, NLR, and annotate file if by phone or keep copy of email or memo in file. (Note: Reference the ITAR or EAR.)
6.5	ECPA	Assemble data required for an export license application, or license amendment. (Note: Data required usually includes: program description, the IA/authority document; destination data; complete descriptive data of the commodity, i.e., everything to be exported; end use of data; names and addresses of end users, foreign consignees, shippers; method of transport; and any other applicable data. Consult with DO, program and project personnel, CEA, applicable contractors.)

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6.6	HEA or ECPA	Is consultation with other agencies required? Does technical complexity and/or NASA equity require a consultation? If no, proceed to step 6.7.
6.6.1	HEA or ECPA	Request consultation. Initiate contact with officials with jurisdiction/veto authority.
6.6.2	HEA or ECPA	Prepare briefing or talking points if needed. (Note: depends on complexity.)
6.6.3	HEA, DD and/or ECPA	Consultation occurs. (Note: This can be a telephone call, meeting, or full up briefing.)
6.7	HEA or ECPA	Prepare draft export license application letter with enclosures. (Note: Export license application letter with enclosures includes; application form(s), description of export, drawing if available, and possibly IA or other authority document if appropriate to include. Reference ITAR or EAR application procedures. ITAR-related license request usually done on DSP-5 form, EAR-related license request usually done on BXA 748P form. Both forms are uniquely numbered for tracking purposes when received by State or Commerce.)
6.8	HEA or ECPA	Circulate export license application letter and appropriate enclosures to DD, HEA, program contact, and DO for review. (Note: Usually done via e-mail. Large hardcopy enclosures may not be circulated. Concurrence is not necessary to proceed.)
6.9	HEA or ECPA	Incorporate review comments, if received, and prepare final export license application letter with enclosures.
6.10	HEA or ECPA	Present export license application letter with enclosures for signature.
6.11	HEA or DD	Approve/sign export license application letter with enclosures. If no, go back to Step 6.9 incorporate HEA/DD changes. Normally the HEA signs, in his absence the DD can sign. A complete export license application is required for approval. (Note: Reference the ITAR or EAR application procedures. The ITAR stipulates who may submit license applications.)

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6.12	HEA or ECPA or Admin support	Submit export license application letter with enclosures according to ITAR or EAR requirements. (Note: Export license application letter with enclosures includes; application form(s), description of export, drawing if available, and IA/authority document if appropriate to include. In some instances submittal may include hand-carry to appropriate destination. ITAR license requires multiple copies [orig & 7] be submitted; electronic application possible with follow-up of appropriate hardcopies. Reference the ITAR or EAR. Denial reklamas require a letter of explanation. Amendments to provisos or conditions also require letter of explanation.)
6.13	ECPA	Monitor and facilitate application progress. (Note: Access online databases, and/or voice status lines. Respond to queries. Contact licensing officer and/or license reviewing officials in other departments and agencies only if warranted.)
6.14	HEA or ECPA	Receive response to export license application, i.e., -- approved export license, license returned without action (RWA), or application denied. (Note: Approved license is the norm.)
6.15	ECPA	Has the application been approved? If yes, proceed to step 6.16, if no to step 6.15.1.
6.15.1	ECPA	Has the application been RWA'd or denied? If RWA'd, proceed to step 6.15.2, if denied continue to step 6.15.3.
6.15.2	ECPA	Resolve RWA issue, determine if license is still required, consult with CEA, DO and program officials, proceed at step 6.4. (Note: RWAs can be at NASA's request if program or export requirement has changed, or RWAs can be due to requirement for additional information, or other reasons.)
6.15.3	HEA, DD, or ECPA	License is denied. Does NASA want to reclama the denial? (Note: Denial of license is rare, a high level of government intervention and strong justification is required to overturn denial.) If yes, begin back at step 6.12.
6.15.4	ECPA	NASA does not want to reclama denial of license. Stop export activity. Inform originator, CEA, DO by email, memo or phone, and annotate file if by phone or keep copy of email or memo in file.
6.16	HEA or ECPA	Evaluate license provisos or riders and conditions on approved license to determine impact to NASA. (Note: consult with program. State Department uses the term "Provisos" on licenses and BXA uses the term "Riders and Conditions" on licenses.)

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6.17	ECPA	Do we need to request an amendment of provisos or riders and conditions? If no, proceed to step 6.18.
6.17.1	ECPA	Request amendment of provisos/conditions. Develop documentation. Proceed to step 6.12.
6.18	HEA or ECPA	Prepare export license guidance memo to program and CEA. (Note: Enclose copy of license, copy of application, and copy of IA; request copy of SEDs or other appropriate indication of use of license in the memo.)
6.19	HEA, DD, or ECPA	Sign export license guidance memo. Enclosures to export license guidance memo are: license, copy of license application, and IA or other authority document.
6.20	ECPA or Admin support	Distribute export license guidance memo. (Note: Original ITAR licenses go to the appropriate CEA; original EAR licenses are retained at HQ, Code ID. Minimum distribution requirement is to the applicable program office, CEA, HEA, chron files, and HQ Code ID license file.)
6.21	ECPA	Update spreadsheet of NASA Export Licenses. File export license guidance memo in Code ID license files.

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7. Quality Records

Record Identification	Owner	Location	Record Media: Electronic or Hard Copy	Schedule Number and Item Number (NPG 1441.1)	Retention/Disposition
Export license application letter with enclosures (6.12)	HEA or ECPA	Code ID	Hard copy	Schedule 1, Item 34	Permanent. Transfer to NARA when activity ceases or when 30 years old. The ITAR and EAR require record keeping of license and related shipping data five years beyond expiration date of the license. (22 CFR 120-130; 15 CFR 730-774)
Export license guidance memo with enclosures (6.19)	HEA or ECPA	Code ID	Hard copy	Schedule 1, Item 34	Permanent. Transfer to NARA when activity ceases or when 30 years old. The ITAR and EAR require record keeping of license and related shipping data five years beyond expiration date of the license. (22 CFR 120-130; 15 CFR 730-774)730-774)